

OFFICIAL INFORMATIONCONFIDENTIAL**EVIDENCE CODE SECTION 1040
INTRADEPARTMENTAL CORRESPONDENCE**

DATE: February 5, 2020
TO: Honorable Board of Police Commissioners
FROM: Inspector General
SUBJECT: NON-TACTICAL UNINTENTIONAL DISCHARGE 008-19 FOR 2/25/20
CLOSED-SESSION AGENDA

<u>Division</u>	<u>Date</u>	<u>Time</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
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West Valley	4/3/19	7:18 p.m.		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Edwards-Gay, F./PO II	2 years, 5 months
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<u>Total Involved Officer(s)</u>

1 x PO II

<u>Suspect</u>	<u>Deceased () Wounded () Non-Hit ()</u>
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Does not apply.

COP Recommendations

Tactics – Tactical Debrief, Officer Edwards-Gay.

Drawing/Exhibiting – Does not apply.

Unintentional Discharge – Administrative Disapproval, Negligent Discharge,
Officer Edwards-Gay.

IG Recommendations

Tactics – Same as COP.

Drawing/Exhibiting – Does not apply.

Unintentional Discharge – Same as COP.

Table of Contents

I.	Investigation	
i.	Annotated Force Investigation Division (FID) Incident Summary	p. 3
II.	Chief of Police Report	
i.	Chief of Police Findings	p. 12
ii.	Chief of Police Analysis	p. 12
III.	Inspector General Review	
i.	Inspector General Analysis	p. 19
ii.	Inspector General Recommendations	p. 19

INVESTIGATION

Annotated Force Investigation Division (FID) Incident Summary¹

Investigative Summary

On Wednesday, April 3, 2019, West Valley Patrol Division uniformed Police Officers Il Facion Edwards-Gay, Serial No. 42753, and Jesse Alcantar, Serial No. 41703, were assigned to Unit 10A17 Watch 2.²

Officer Edwards-Gay and Officer Alcantar are regularly assigned partners and have worked together for approximately two months. According to both officers, they regularly discuss tactics, pursuit tactics, who will act as contact or cover, and communications. Officer Edwards-Gay stated that she was designated as contact for the day.

At 0856:56 hours, Communications Division (CD) broadcast, "Topanga units, citizen following a burglary from motor vehicle suspect, Owensmouth south, Owensmouth south on Vanowen, now southbound Mason, suspect vehicle is a dark gray, Toyota Tacoma, License 57034E25, 57034E2, standby for additional, Code Three, incident 1419, RD 2156."

Multiple Topanga Patrol Division and West Valley Patrol Division units responded to the radio call of the citizen following a burglary suspect. The response resulted in a vehicle pursuit, a major traffic collision, and a Non-Categorical Use of Force at the intersection of Balboa Boulevard and Vanowen Street at 6830 Balboa Boulevard.

Note: Force Investigation Division investigators determined that the Non-Tactical Unintentional Discharge (NTUD) occurred separately from the pursuit, traffic collision, Non-Categorical Use of Force, and crime associated with this incident. As a result, the vehicle pursuit and traffic collision are being investigated by Traffic Coordination Section Multi-Disciplinary Collision Investigation Team (MCIT) (DR No. 19-1008042). The Non-Categorical Use of Force investigation and pursuit are being

¹ The Incident Summary presented here is reproduced from FID's report regarding this case, and is supplemented with annotations by the OIG. All OIG annotations are referenced as an "OIG Note." All other references and citations in the reproduced FID Incident Summary (e.g., Investigators' Notes or Addenda Items) are reproduced directly from FID's report. Unless otherwise stated, all information provided in OIG annotations is derived from FID's investigation of this incident.

² Officer Edwards Gay, 2 years, 5 months with the Department, 5 feet 08 inches tall, 180 pounds. Officer Alcantar, 4 years 9 months with the Department, 5 feet 8 inches tall, 220 pounds. Each officer was equipped with their ballistic vest, Department approved handgun, a pair of handcuffs, a canister of Oleoresin Capsicum (OC) spray, Hobble Restraint Device (HRD) and a TASER, Model X26P. Officer Edwards was equipped with her collapsible baton, Officer Alcantar wore his side handle baton attached to their respective equipment belts. Officer Edwards Gay was the driver of Shop No. 81152, and Officer Alcantar was the passenger. Both officers were equipped with Body Worn Video (BWV) cameras.

investigated by West Valley Patrol Division (Teams Case No. 2028519) and the criminal investigation is being completed by West Valley Area Detectives (DR No. 19-1008043) (Addendum No. 1).

According to Officer Edwards-Gay, her and Officer Alcantar had just left Van Nuys Court and were enroute back to West Valley Division. They heard a radio broadcast of a citizen following a burglary suspect on West Valley Area Frequency. At 0905:42 hours, Officer Alcantar broadcast over West Valley Area frequency, that they were enroute to the call (Addendum No. 2).

At approximately 0911 hours, Officers Edwards-Gay and Alcantar arrived at the intersection of Balboa Boulevard and Vanowen Street. Officer Alcantar placed their unit Code Six via their Mobile Data Computer (MDC). According to Officer Alcantar, he observed multiple vehicles that had collided in the intersection. Approximately 300 feet north of the intersection, a gray, Toyota Tacoma pick-up truck, California License Plate No. 57034E2, later determined to be stolen, with major traffic collision damage, was at rest at the east curb of Balboa Boulevard, in front of the McDonald's Restaurant located at 6830 Balboa Boulevard.



(Suspect vehicle driver side profile photograph.)

According to Officer Edwards-Gay, as she and Officer Alcantar exited their police vehicle, they observed Topanga Patrol Division uniformed Police Officer III Erik Solter, Serial No. 32514, and Police Officer I Steven Jimenez, Serial No. 43690, Unit 21A73 Watch 2, at scene. Officers Solter and Jimenez had deployed to the passenger side of the suspect vehicle.

Officer Solter's BWV footage depicted him motioning with his left hand toward the suspect's vehicle. According to Officer Edwards-Gay's statement she believed that Officer Solter's motions indicated that there were people inside the suspect vehicle.³

Note: At the time that Officers Edwards-Gay and Alcantar approached the suspect vehicle. Two Grand Theft Auto (GTA) suspects, Joseph Dagan and Maria Munoz, remained inside the vehicle. Dagan was in the rear driver side of the vehicle, while Munoz was positioned in the front passenger seat. A third suspect, Jonathan Calderon, had fled the vehicle prior to their arrival and was apprehended by West Valley Officers to the rear of the McDonald's parking lot.

According to Officer Edwards-Gay she and Officer Alcantar advanced to the driver side of the suspect vehicle. Officer Edward's Gay acted as point officer and due to the suspect being wanted for GTA, she unholstered her duty pistol with her right hand and held it in a single-handed low-ready position. As she approached the rear driver side door of the suspect vehicle she used her left hand to open the rear driver side door. She observed one of the suspects, Dagan, partially laying in the rear seat of the vehicle. She ordered Dagan, "Don't move, don't fucking move." (Investigators Note No. 1).⁴

Officer Edwards-Gay indicated in her interview that it became obvious that the suspect was badly injured from the traffic collision. This caused Officer Edwards-Gay to holster her pistol. Officer Alcantar broadcast a request for a Rescue Ambulance (RA) for Dagan as well as other victims of the traffic collision. Officer Edwards-Gay indicated that Dagan was partially falling out of the rear driver side of the vehicle. This caused her to grasp Dagan's shirt to prevent his fall. Officer Edwards-Gay held Dagan for several minutes before asking Officer Alcantar to take over for her.

According to Officer Edwards-Gay, she returned to her police vehicle and retrieved latex gloves due to the large amount of blood on Dagan and other victims at scene. Officer Edwards-Gay immediately returned to the suspect vehicle.

At approximately 0918 hours, Officer Edwards-Gay proceeded to the front driver side of the suspect vehicle and opened the driver door. Officer Alcantar can be heard on

³ Officer Solter's BWV (Zulu Timestamp T16:11:10Z). The timestamp provided is a "Zulu time" indicator for reference in the BWV footage. Zulu time is based off of Greenwich Mean Time, which is +7 hours compared to Pacific Standard Time. Example 16:00:00Z is 09:00:00 Pacific Standard Time.

⁴ Officer Edwards Gay's BWV (Zulu timestamp T16:11:38Z).

Officer Edwards-Gay BWV asking her to cut out the deployed airbags that were in the front of the vehicle. Officer Edwards-Gay can be seen reaching into the vehicle with her right arm and briefly touching the top of the steering wheel. She then paused before reaching into a depression between the dashboard and steering wheel column.



(BWV of Officer Edwards-Gay attempting to remove firearm prior to NTUD)

According to Officer Edwards-Gay, her original intent was to turn off the vehicle's ignition, but as she reached across the steering wheel, she observed what she identified as the grip of a revolver. She could not see any other part of the revolver.

Officer Edwards-Gay Stated: *"The dashboard is like split open from the wreckage. And inside where the steering column should be, wedged inside, I see the handle of a gun. So I reach in and I try to pull the gun out. I don't -- I can't see the barrel. I can just see the handle."*⁵

According to Officer Edwards-Gay, she utilized her right hand and obtained a partial grip on the handle of the revolver. Once Officer Edwards-Gay obtained a "few finger"⁶ grip on the handle of the revolver, she pulled at it in an attempt to remove it from the dashboard area. The gun did not dislodge from the dashboard and Officer Edwards-Gay pulled again. Officer Edwards-Gay advised that there was a sudden "pop"⁷ and

⁵ Edwards-Gay, Page 12-13, Lines 23-2.

⁶ *Id.*, Page 20, Line 19.

⁷ *Id.*, Page 13, Line 4.

she immediately released her grip on the revolver and pulled her right hand away from the dashboard.

Officer Edwards-Gay Stated: *"So I grab it with kind of – I just kind of grab it and pull. It doesn't come, I pull it again, and there's a pop. And so I let go of the gun."*⁸

Note: As depicted in Officer Edwards-Gay's BWV, she reached into a depression between the dashboard and steering column with her right hand (the revolver was obscured by the dashboard and Officer Edwards-Gay's hand and not immediately visible in the BWV). Officer Edwards-Gay appeared to make a slight tugging motion away from the dashboard. There is then a second tugging motion away from the dashboard followed by a slight movement of Officer Edwards-Gay's right arm inward toward the dashboard. This is immediately followed by the sound of a single shot, followed by Officer Edwards-Gay immediately removing her right arm away from the dashboard of the truck.⁹

After the revolver discharged, Officer Edwards-Gay announced to Officer Alcantar that there was a gun in the dashboard of the car.

Note: Officer Alcantar was positioned to the rear driver side of the suspect vehicle at the time of the NTUD. According to Officer Alcantar and West Valley Patrol Division uniformed Police Officer III Calvin Hill, Serial No. 40479, they did not immediately identify the revolver report as a gunshot and thought that it may have been a vehicle airbag popping. Additionally, Joseph Dagan also believed that the noise he heard was an airbag that had popped.

As depicted in Officer Edwards-Gay's BWV, she reached back into the dashboard area of the vehicle with her right hand and removed the revolver from the dashboard without further incident.¹⁰ According to Officer Edwards-Gay, once the revolver was taken out of the truck, she attempted to open the revolver's cylinder by pressing the cylinder release, to unload the gun. However, the cylinder release appeared to be immobile.

According to Officer Hill, who was standing approximately five feet from the passenger side of the suspect vehicle tending to the injured suspect, Maria Munoz, he heard a muffled "bang"¹¹ sound and believed that an airbag had deployed. He walked around the front of the vehicle to assess what had occurred. According to Officer Hill, he

⁸ Edwards-Gay, Page 13, Lines 2-7.

⁹ Officer Edwards-Gay's BWV (Zulu timestamp T16:18:37Z).

¹⁰ Officer Edwards-Gay's BWV (Zulu timestamp T16:18:40Z).

¹¹ Hill, Page 11, Line 4.

observed Officer Edwards-Gay standing near the driver side of the vehicle and she stated "it went off."¹² Officer Hill then noticed that Officer Edwards-Gay was holding a revolver in her hand.

As depicted in Officer Edwards-Gay's BWV, Officer Hill asked Officer Edwards-Gay what had happened. Officer Edwards-Gay stated she had no idea, and handed the revolver to Officer Hill.

According to Officer Hill, he attempted to open the revolver's cylinder using the cylinder release. After examining the revolver for a few moments, Officer Hill believed the revolver was jammed and decided that it should be secured in Officer Edwards-Gay's police vehicle (Investigator Note No. 2).

As depicted in Officer Edwards-Gay's BWV, Officer Hill handed the revolver back to Officer Edwards-Gay. She walked the revolver to her police vehicle, Shop No. 81152, which was parked approximately 50 feet south of the suspect vehicle. Once at her police vehicle, Officer Edwards-Gay placed the revolver in the trunk area and closed the back hatch.¹³

Officer Edwards-Gay then walked to West Valley Patrol Division uniformed Sergeant I Keith Spencer, Serial No. 32990, unit 10L60 Watch 2, and Officer Hill, who were standing near the suspect vehicle.

Note: Sergeant Spencer was the first supervisor on-scene and was Code Six at the time of the initial pursuit and traffic collision. At the approximate time of the NTUD, Sergeant Spencer had been directing officers' actions during a Non-Categorical Use of Force to the rear of the McDonalds Restaurant located at 6830 Balboa Boulevard. According to Sergeant Spencer, he was unaware an NTUD had occurred prior to being notified by Officers Edwards-Gay and Hill.

Officer Edwards-Gay briefed Sergeant Spencer on the discovery of the revolver. Officer Hill advised Sergeant Spencer that the gun may have discharged. Officer Edwards-Gay described to Sergeant Spencer the circumstances of the NTUD and walked him over to the truck to show him where the gun was discovered. Sergeant Spencer then walked away from Officer Edwards-Gay without further questions or direction.

Note: Sergeant Spencer made telephonic notification of the incident and possible NTUD to West Valley Patrol Division Watch Commander, Sergeant I David Cueto, Serial No. 25874.

¹² *Id.*, Page 11, Lines 10-12.

¹³ Officer Edwards-Gay's BWV (Zulu timestamp T16:19:54Z).

According to Sergeant Spencer, after he had walked to the suspect vehicle with Officer Edwards-Gay, he briefly canvassed the area for victims and then observed West Valley Area Senior Lead Officer-in-Charge, uniformed Sergeant I Lawrence Martinez, Serial No. 31179, 10SLO10 Watch 2. Sergeant Spencer briefed Sergeant Martinez on the incident and the possibility that an NTUD had occurred.

As seen in Officer Alcantar's BWV, at approximately 0928 hours, he returned to his police vehicle. Officer Edwards-Gay removed the suspect's revolver from the trunk and handed it to Officer Alcantar who utilized the cylinder release, and opened the revolver's cylinder to inspect it.¹⁴ At this time Sergeant Martinez can be observed walking to Officer Alcantar. Officer Alcantar can be heard stating that it appeared that one of the rounds in the revolver had been fired. Officer Edwards-Gay again explained that when she attempted to remove the gun from the dashboard of the vehicle she heard a pop noise.

Sergeant Spencer walked to Officers Alcantar and Edwards-Gay. Both Sergeants Spencer and Martinez asked Officer Alcantar to accompany Dagan to the hospital with the RA. According to Officer Alcantar, he returned to the trunk area of his police vehicle, and, utilizing an evidence bag, removed the ammunition from the revolver and placed it into the evidence bag. The revolver and ammunition were then placed back into the trunk of his police vehicle (Investigator Note No. 3).

Officer Alcantar then entered RA No. 83, where he rode in the ambulance with Dagan to Northridge Hospital. At approximately 0936 hours, Officer Edwards-Gay followed the ambulance in her police vehicle.

According to Officer Alcantar, once they arrived at Northridge Hospital, he realized that due to the NTUD, FID would need to be notified and that he and Officer Edwards-Gay should separate from one another. Once at Northridge Hospital, Officer Alcantar asked Officer Edwards-Gay to separate from him and make notifications to the Watch Commander about the NTUD.

Officer Edwards-Gay notified West Valley Watch Commander Sergeant Cueto of the NTUD.

Sergeant Cueto directed West Valley Area Sergeant I Edward Yates, Serial No. 34832, and Sergeant Martinez responded to Northridge Hospital to separate and monitor Officer Edwards-Gay and Alcantar. Sergeant Yates obtained a Public Safety Statement from Officer Edwards-Gay.

Note: West Valley Patrol Division Senior Lead Officer Police Officer III+1 Denise Vasquez, Serial No. 37033, responded to Northridge Hospital and

¹⁴ Officer Alcantar's BWV (Zulu timestamp T16:28:00Z).

drove Officers Edwards-Gay and Alcantar's police vehicle back to the scene with the revolver in the trunk.

Force Investigation Division Sergeant II Jess Falk, Serial No. 38231, reviewed all documents and circumstances surrounding the separation, monitoring and the admonition not to discuss the incident to officers prior to being interviewed by FID investigators (Investigator Note No. 4, Addendum No.1).

Evidence

On April 3, 2019, at 1115 hours, FID Detective II Thomas Brown, Serial No. 34045, responded and conducted an examination of the NTUD scene. As a result, six items of evidence were collected and booked in conjunction with this investigation under DR No. 19-1008043. Included in those items was a revolver (Item No. 1), one expended 38 caliber cartridge case (Item No. 2), one live 38 caliber cartridge stamped "WW 38 Special" (Item No. 3), and two live 38 caliber cartridges stamped "Winchester" (Item No. 4) (Addendum No. 4).

Weapon



Revolver: The weapon involved in the NTUD was a Smith and Wesson, Model 49, 38 caliber revolver with a five shot cylinder. The revolver was blue steel, with a wooden grip.

The revolver was initially recovered in the suspect vehicle by Officer Edwards-Gay, the vehicle was located in front of 6830 Balboa

Boulevard. The revolver was subsequently placed into the trunk of Shop No. 81152, where it was recovered by FID Detective Brown. It was booked in association with Arrest Report DR No. 191008043, suspect Jonathan Calderon (Addendum No. 5).

On April 10, 2019, Forensic Science Division (FSD) Firearms Analysis Unit (FAU) Criminalist II Daniel Rubin, Serial No. G9077, completed a report documenting the test-firing of the revolver (Item No. 1). The revolver and ammunition were functional. Additionally, the revolver was swabbed for DNA by Criminalist Rubin (Addendum No. 5).

[...]

Investigators' Notes

1. During Officer Edwards-Gay's initial contact with the suspect, Joseph Dagan, Edwards-Gay gave the verbal command: "Don't move, don't fucking move." According to Officer Edwards-Gay, she used this language due to the type of crime that was related to the incident and the possibility that the suspect was armed with a weapon. On April 9, 2019, Force Investigation Group Commanding Officer, Commander Robert Marino, Serial No. 27226, notified Office of Operations of the above issue.
2. After the NTUD occurred, Officer Edwards-Gay removed the revolver from the dashboard of the truck. Unsure of the condition of the weapon she and Officer Hill attempted to further manipulate the gun by attempting to open the cylinder of the revolver. On April 9, 2019, Commander Marino, notified Office of Operations of the above issue.
3. After the revolver involved in the NTUD had been moved and secured inside Officer Edwards-Gay's police vehicle, Officer Edwards-Gay removed the revolver from the trunk, handed the gun to Officer Alcantar, who in turn opened and unloaded the cylinder. This was done in the presence of Sergeant Martinez. On April 9, 2019, Commander Robert Marino, notified Office of Operations of the above issue.
4. Both Officer Hill and Officer Edwards-Gay informed Sergeant Spencer that a possible NTUD had occurred, in turn this information was conveyed to Sergeant Martinez by Sergeant Spencer, who was also at scene. Neither sergeant immediately caused the separation, monitoring, or admonishment of the involved officer or percipient witnesses. Instead, Sergeants Spencer and Martinez ordered Officers Edwards-Gay and Alcantar to leave the scene unaccompanied by a supervisor and escort suspect Joseph Dagan to Northridge Hospital. Furthermore, Officer Edwards-Gay drove the vehicle with the revolver to Northridge hospital, removing it from the scene of the NTUD. Both supervisors stated during their interviews that, the chaotic nature of the scene contributed to the oversights regarding Categorical Use of Force protocol. On April 9, 2019, Commander Robert Marino, notified Office of Operations of the above issue.

CHIEF OF POLICE REPORT¹⁵

Chief of Police Findings

- The Chief recommended the following findings in this case:

Tactics – Tactical Debrief, Officer Edwards-Gay.

Drawing/Exhibiting – Does Not Apply.

Unintentional Discharge – Administrative Disapproval, Negligent Discharge, Officer Edwards-Gay.

Chief of Police Analysis

Detention

- Does not apply.

Tactics

- Department policy relative to a Tactical Debrief is: “The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance” (Los Angeles Police Department Manual, Volume 3, Section 792.05).

Officer Edwards-Gay’s tactics were not related to the NTUD that occurred during this incident; therefore, they were not reviewed or evaluated. However, as Department guidelines require personnel who are substantially involved in a CUOF incident attend a Tactical Debrief, the Chief determined that it would be appropriate to recommend a Tactics finding of Tactical Debrief.

During the review of this incident, the following Debriefing Point was noted:

- Firearms Manipulations – Four Basic Firearm Safety Rules

Tactical De-Escalation

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

¹⁵ The information provided in this section summarizes the analysis and findings set forth in the Chief of Police’s report for this case.

Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)*

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

In this case, Officer Edwards-Gay did not have direct interaction with the suspect while attempting to retrieve the revolver. It was determined that the NTUD was a separate occurrence from the other activities that were occurring; therefore, Officer Edwards-Gay was not evaluated for tactical de-escalation.

Command and Control

- Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (Supervisor's Field Operations Guide, Volume 2, LAPD Emergency Operations Guide).

Line Supervision – Defined. A supervisor who has the specific responsibility of issuing directions and orders to designated subordinates shall be considered as having the duty of line supervisor and shall be held accountable for achieving conformance with the directions and orders that he/she issues (Los Angeles Police Department Manual, Volume 3, Section 135).

Sergeant Spencer responded and began to manage the scene, which included a vehicle pursuit, severe traffic collision, and a NCUOF. Shortly thereafter, Officer Edwards-Gay advised Sergeant Spencer that the revolver had discharged, but Sergeant Spencer was distracted due to his role in managing the scene. Sergeant Spencer failed to order Officer Edwards-Gay to not discuss the incident and did not ensure that she was separated and monitored. As a result, Officer Edwards-Gay was left unattended and the revolver was allowed to be manipulated and moved numerous times. Additionally, he directed Officer Edwards-Gay to travel to the hospital with a suspect.

Sergeant Martinez responded and assisted Sergeant Spencer with assessing the scene and requesting resources. Sergeant Martinez was informed by Sergeant

Spencer that a NCUOF and a NTUD had occurred. According to Sergeant Martinez, when Officer Edwards-Gay approached him Sergeant Martinez became focused on *making sure that resources were assigned to accompany the suspects to the hospital*. Sergeant Martinez, upon review of his BWV, realized that when Officer Edwards-Gay attempted to inform him that the revolver had discharged, he became *distracted and turned away*.

The UOFRB noted that upon arrival, Sergeants Spencer and Martinez were faced with numerous factors, including a brief vehicle pursuit, severe traffic collision, multiple injured victims and suspects requiring transportation to local hospitals, and a NCUOF. While Sergeants Spencer and Martinez were monitoring the radio and conducting an assessment of the incident in an effort to gain situational awareness, they allowed themselves to become distracted, causing the information communicated to them by Officer Edwards-Gay regarding the discharge of the revolver to become lost in their attempts at scene management. Being overcome by distractions resulted in a breakdown of communications between the supervisors themselves and with the officers. The culmination of this delayed the requisite following of categorical use of force protocols in a timely and expeditious manner, a Department expectation of its supervisors. The supervisors did take responsibility during their interviews, acknowledging the shortcomings upon post-incident evaluation.

The Chief recognized this was a chaotic situation and acknowledged that the attention of both supervisors was divided by crime scene management and resource coordination. This contributed to the delay in the post-OIS separation, monitoring, and PSS protocols. The Chief's expectations of Department supervisors include taking control of complicated events or scenes, and the ability to provide clear direction to officers, while prioritizing critical components of the incident. Based upon the totality of the circumstances, the UOFRB determined, and the Chief concurred, that the deficiencies in the incident management by Sergeants Spencer and Martinez fell short of Department expectations and their respective future performance would be significantly improved by training specific to command and control of multi-tiered critical incidents.

Sergeant Yates responded to Northridge Hospital Medical Center and obtained a PSS from Officer Edwards-Gay. Sergeant Yates also ensured Officer Edwards-Gay was separated and monitored.

The actions of Sergeant Yates were consistent with Department supervisory training and met the Chief's expectations of field supervisors during a critical incident.

The Chief will direct that the topic of Command and Control, and his expectations of supervisors during critical incidents, be specifically addressed with Sergeants Spencer and Martinez during the Tactical Debrief.

Tactical Debrief

- Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

Therefore, the Chief will direct that Sergeants Spencer and Martinez, along with Officer Edwards-Gay, attend a Tactical Debrief and that the specific identified topics are discussed.

Note: Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

General Training Update (GTU)

- On April 18, 2019, Officer Edwards-Gay attended a GTU. All mandatory topics were covered including Firearms Manipulations.

Unintentional Discharge

- *Firearms safety is critical. Officers must have the ability to draw, holster and manipulate weapons safely at all times, especially under stressful conditions. Firearms safety rules have been established based upon real life situations and are applicable at all times. Violations of any of the safety rules will not be tolerated.*

The Four Basic Firearm Safety Rules

1. *All guns are always loaded.*
2. *Never allow the muzzle to cover anything you are not willing to shoot.*
3. *Keep your finger off the trigger until your sights are aligned on the target and you intend to shoot.*
4. *Be sure of your target.*

Officers are required to know and apply the Four Basic Firearm Safety Rules throughout their careers. These rules must be ingrained into an officer's natural thought process and become second nature. Any violation of the Four Basic

Firearm Safety Rules may result in the unintentional discharge of a round. This is a serious matter with the potential of having tragic results. For administrative purposes, the unintended discharge of a weapon is classified into two categories:

- 1. Accidental discharge: An unintended discharge of a firearm as a result of a mechanical malfunction of the firearm, not involving the shooter.*
- 2. Negligent discharge: An unintended discharge of a firearm as a result of a shooter not handling a weapon in a safe manner, violating one or more of the four basic firearm safety rules (Los Angeles Police Department Firearms Manual, July 2015).*

Administrative Disapproval - Negligent Discharge. *Finding where it was determined that the unintentional discharge of a firearm resulted from operator error, such as the violation of a firearm safety rule (Los Angeles Police Department Manual, Volume 3, Section 792.05).*

Officer Edward Gay – .38 caliber, one round in a Northeast direction

According to Officer Edwards-Gay, after she opened the driver's side door, she leaned in to turn off the engine and observed that the dashboard was completely obliterated with the steering column, split from the dashboard. Officer Edwards-Gay observed the wooden handle of a gun, wedged between the steering column and the dashboard. Knowing that Los Angeles Fire Department (LAFD) personnel would be coming in and out of the car to extricate the Munoz and Dagan and fearing that the gun was within reach of Munoz, Officer Edwards-Gay felt it was safer to take the gun out. Believing the space was too tight to grab hold of the entire gun, Officer Edwards-Gay reached in with her right hand and gripped the handle with her thumb and index finger. Officer Edwards-Gay pulled it once and it didn't come out. She tugged it again, causing one round to be discharged from the revolver. Officer Edwards-Gay heard a pop and let go of the gun.

Officer Edward Gay recalled, *"I knew that once Fire, like the Fire Department came in, they'd be climbing inside the car. There would be -- there were a lot of people around, so I just wanted to make sure to make it safe for everyone in the area... So I open the front driver seat. And when I lean in, and the dash -- the dashboard is completely like obliterated. There is -- the steering column is down. The dashboard is like split open from the wreckage. And inside where the steering column should be, wedged inside, I see the handle of a gun. So I reach in and I try to pull the gun out. I don't -- I can't see the barrel. I can just see the handle. So I grab it with kind of -- I just kind of grab it and pull it. It doesn't come, I pull it again, and there's a pop. And so I let go of the gun."*¹⁶

¹⁶ Edwards-Gay, Page 32, Lines 18-22; Page 12, Line 19 – Page 13, Lines 4.

The gun was wedged in -- in between the dashboard and the steering column with the handle out. I couldn't see the barrel or anything else. Just the handle. So I reached out with my right hand with one hand and just gripped the -- just the -- the wooden handle and tugged it. When it didn't come, I tugged it again, and it went off. Just a few fingers because it was so -- just there wasn't enough space for me to grab with my whole hand the entire gun.¹⁷

In this case, the UOFRB conducted a thorough review in evaluating the circumstances and evidence related to this incident. Upon reviewing the evidence, the UOFRB determined that the UD was the result of operator error. After Officer Edwards-Gay's first attempt to pull the revolver out from the depression between the steering column and the dashboard, the revolver did not dislodge. She tugged on it a second time, followed by a slight movement inward towards the dashboard. Immediately following the slight inward movement, the sound of a single gunshot could be heard.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that Officer Edward Gay's action violated the Department's Basic Firearm Safety Rules, and therefore requires a finding of Administrative Disapproval (AD), Negligent Discharge. The Chief will direct that this be a topic of discussion during the Tactical Debrief.

Additional

- **Profanity** – The investigation revealed that Officer Edwards-Gay used profanity directed towards Dagan. The profanity was determined to be a single utterance and did not escalate the incident. Captain E. Eskridge, Serial No. 24585, Commanding Officer, West Valley Area, was advised and addressed this issue through divisional training. The Commanding Officer of Operations-Valley Bureau (OVB) and the Director of the Office of Operations (OO) concurred with this action. As such, the Chief deemed no further action is necessary.
- **Preservation of Life** – The investigation revealed that after initially approaching the suspect vehicle, Officers Alcantar and Edwards-Gay recognized that Dagan was significantly injured and was partially falling out of the vehicle. Even though the tactical incident was continuing, Officers Alcantar and Edwards-Gay took steps to support Dagan's upper body to avoid him further injury or pain.
- **Categorical Use of Force Protocols** – The investigation revealed that on numerous occasions, Officers Edwards-Gay, Hill, and Alcantar moved the revolver during the incident. Captain Eskridge was advised and addressed this issue through divisional training. The Commanding Officer of OVB and the Director of OO

¹⁷ *Id.*, Page 20, Lines 9-21.

concurred with this action. As such, the Chief deemed no further action is necessary.

- **Protocols Subsequent to a Categorical Use of Force Incident** – The investigation revealed that Sergeants Spencer and Martinez, upon being informed of the NTUD, did not immediately ensure Officers Edwards-Gay was separated and monitored. Captain Eskridge was advised and addressed the issue through divisional training. The Commanding Officer of OVB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

Audio/Video Recordings

- **Digital In-Car Video System (DICVS)/Body Worn Video** – West Valley Patrol Division and Topanga Patrol Division vehicles were equipped with DICVS; however, none captured the NTUD. West Valley Patrol Division and Topanga Patrol Division officers were equipped with BWV at the time of the incident. Officers Edwards-Gay's BWV captured the NTUD. Officer Alcantar's BWV captured the sound of the NTUD.

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INSPECTOR GENERAL REVIEW

Inspector General Analysis

Investigation Quality

- No significant issues of concern were identified in relation to investigation quality.

Training Issues

- No significant issues of concern were identified in relation to training.

Equipment Issues

- No significant issues of concern were identified in relation to equipment.

Inspector General Recommendations

Tactics

- The OIG concurs with the Chief's findings.

Drawing/Exhibiting

- Does not apply.

Unintentional Discharge

- The OIG concurs with the Chief's findings.



Mark P. Smith
Inspector General